

**Remarks**

Applicants request entry of the amendments and reexamination of the application.

Claims 1-80 are pending and claims 68-69 have been allowed (see page 2 of the Office Action).

Applicants have amended claims 1, 19, 28 and 37. The Examiner suggested that the term "bob syrup" is not adequately defined in the specification (see page 2 of the Office Action). While applicants disagree as explained in detail in the remarks below, the term has been deleted from the claims. Instead, applicants claims now recite a "syrup" or a "first heated syrup" or "first syrup mixture." One of skill in the art understands these terms in the context of the present claims. Furthermore, the use of "syrup" as a mixture in the claimed methods refers to a mixture comprising water, sugar, and a humectant, which is the customary understanding of a syrup in the art. The use of syrup in the amended claims is also consistent with the definitions and explanations in the specification, where, for example at page 4, paragraph 0011, applicants state that "As known in the art, a bob syrup comprises water, a sugar, and here a humectant, such as a composition of sorbitol and glycerine, or other humectants of the art." Also, at page 11, paragraph 0022, applicants state that

"As noted above, in one aspect of the confectionery products according to the invention are produced by blending two components: (I) a bob syrup which is boiled to a specific solids contents; and (II) a fat containing component.... A bob syrup as used in this invention is a water, sugar, humectant blend, typically also containing corn syrup and sugar alcohol, that may be cooked down to a specific solids content."

In addition, in the Examples section, for instance, Example 1, at page 15, paragraph 0034, Component I is defined consistent with the syrup of the amended claims.

Thus, applicants have defined syrup, as well as bob syrup, and the amended claims refer to a syrup or water-based component as explained and exemplified in the specification.

No new matter enters by the amendments to this application.

Initially, applicants request an Examiner's Interview to discuss the amended claims and original claims 70-80. Applicants' representative will contact the Examiner after the filing of this paper to arrange a convenient date.

#### Original Claims 70-80

Applicants note that original claims 70-80 did not appear to be examined in the Office Action. All of these claims are dependent upon allowed claim 68 and the examination of these claims should not require an additional search. Regardless, applicants respectfully note that an applicant is entitled to examination of all pending claims in an application.

As evidence that the original application contained claims 1-80, applicants submit as an attachment the complete application document (pages 1-31 and including page 30 with claims 70-80), and the date-stamped postcard accompanying the original filing. Applicants also attach a copy of the Official Filing Receipt stating that the total claims as filed were 80. Together, these documents clearly indicate that pages 1-31, including claims 1-80, were originally filed in and received by the U.S. Patent and Trademark Office.

Applicants request examination of claims 70-80.

#### Rejection under 35 U.S.C. § 112

Claims 1-67 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The rejection states that the term "bob syrup" is not adequately defined in the specification. Applicants respectfully disagree. However, the claims containing a reference to "bob syrup" have been amended to recite "syrup," as explained above. The term syrup is understood in the art and its use in the claims follows the definitions and explanations in the specification.

In addition, applicants note that the specification does indeed adequately define "bob syrup." For example, at page 11, paragraph 0022, applicants refer to a "bob syrup" as

comprising water, sugar, and a humectant. This is the same definition found in original claim 1. Applicants explained above the use of the terms "syrup" and "bob syrup."

This definition is also consistent with the use of the term in the art. As evidenced, Applicants enclose a copy of an article from Candy Industry at page 21, from November 1991 ("Cast cream wafers by the "bob" method"). This article refers to a "bob syrup" and gives exemplary formulations in the table. While the "bob syrup" is not a strictly defined component, all of the formulations contain water, sugar, and a humectant. As noted in the bottom of the middle column, the humectant can be invert sugar or corn syrup. This is consistent with the understanding in the art and with the use of the term "bob syrup" as a mixture comprising sugar, water, and a humectant.

Applicants respectfully request reconsideration and withdrawal of this rejection.

The application is in condition for allowance. Timely notification of allowability is requested.

Since the remarks above show that no amendment to the claims is necessary, applicants assert that the amendment is not made for reasons of patentability. In fact, the amendments to the claims broaden the invention by referring to a generic "syrup" as opposed to a "bob syrup." Thus, no estoppel or other reasons for limiting the claims based upon this amendment are appropriate.

If there are any additional fees due with the filing of this document, including fees for the net addition of claims, applicants respectfully request that any and all fees be charged to Deposit Account No. 50-1129. If any extension of time request or any petition is required for the entry of this paper or any of the accompanying papers, applicants hereby petition or

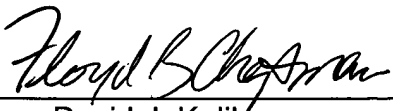
Appl. No. 09/985,948  
Reply and Amendment dated February 19, 2004  
Reply to Office Action of November 19, 2003

request the extension necessary: The undersigned authorizes any fee payment from  
Deposit Account No. 50-1129.

Respectfully submitted,  
**Wiley Rein & Fielding LLP**

Date: February 19, 2004

By:

  
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Enclosures: Copy of application filed Nov. 6, 2001  
Copy of date-stamped postcard  
Copy of Official Filing Receipt  
Copy of page 21, Candy Industry

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